

## Message Text

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ACTION L-03

INFO OCT-01 ARA-16 IO-14 ISO-00 AF-10 EA-11 EUR-25 NEA-14

RSC-01 FEA-02 OMB-01 TAR-02 SP-03 SWF-02 AGR-20

AID-20 CIAE-00 COME-00 EB-11 INR-10 LAB-06 NSAE-00

OIC-04 SIL-01 STR-08 CIEP-02 CEA-02 DRC-01 /190 W

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P R 151418Z JUN 74

FM AMEMBASSY MEXICO

TO SECSTATE WASHDC PRIORITY 2185

US TREASURY DEPT WASHDC

INFO USUN NEW YORK 698

US MISSION GENEVA 380

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E.O. 11652: N/A

TAGS: EGEN, UNCTAD

SUBJECT: UNCTAD CHARTER OF ECONOMIC RIGHTS AND DUTIES

TREASURY PASS BRADFIELD

REF: STATE 127801

1. MULTINATIONAL CORPORATIONS. PURSUANT TO FELDMAN/SCHWEBEL TELCON, AND IN VIEW OF DISCUSSION AT GROUP B MEETING, WE HAVE REDRAFTED SUGGESTED PROPOSAL ON MNCS AS FOLLOWS: QUOTE. EVERY STATE HAS THE RIGHT TO REGULATE AND SUPERVISE THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS WITHIN ITS JURISDICTION BY TAKING MEASURES TO ENSURE THAT SUCH CORPORATIONS COMPLY FULLY WITH ITS LAWS, RULES AND REGULATIONS. IN EXERCISING THIS RIGHT, EVERY STATE SHALL TREAT TRANSNATIONAL CORPORATIONS EQUITABLY AND IN A NON-DISCRIMINATORY FASHION, AVOIDING ARBITRARY ACTIONS, AND OTHERWISE OBSERVING APPLICABLE INTERNATIONAL OBLIGATIONS. TRANSNATIONAL CORPORATIONS SHALL RESPECT THE SOVEREIGNTY AND LAWS OF THE COUNTRIES IN WHICH THEY OPERATE, REFRAINING

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FROM ANY INTERVENTION IN THEIR INTERNAL AFFAIRS.

STATES SHALL COOPERATE IN GOOD FAITH TO RESOLVE CONFLICTS OF JURISDICTION IN THE APPLICATION OF THEIR LAW TO TRANSNATIONAL CORPORATIONS, DUE REGARD BEING PAID TO APPLICABLE INTERNATIONAL OBLIGATIONS AND TO THE INTERESTS OF EACH COUNTRY CONCERNED.  
UNQUOTE.

2. IT WAS AGREED AT GROUP B MEETING JUNE 14 THAT MEMBERS OF GROUP B WOULD GENERALLY SUPPORT FOREGOING TEXT. HOWEVER, SINCE PERTINENT NEGOTIATING GROUP DID NOT MEET, ITS INTRODUCTION HAS BEEN DEFERRED TO 10:30 A.M. JUNE 17.

3. NATIONALIZATION. GREATLY APPRECIATE SCOPE OF AUTHORITY AFFORDED REFTEL AND YOUR HELPFUL COMMENTS.

4. BULK OF DISCUSSION JUNE 14 IN CASTANEDA'S INFORMAL NEGOTIATING GROUP COMPOSED OF U.S., U.K., CANADA, AUSTRALIA, CHINA, YUGOSLAVIA, ALGERIA AND MEXICO DEVOTED TO PARA 10. CASTANEDA VIGOROUSLY MAINTAINED THAT A STATE HAS ABSOLUTE RIGHT TO REGULATE AND CONTROL FOREIGN INVESTMENT; U.S. AND U.K. JUST AS STOUTLY MAINTAINED THAT THAT RIGHT CONDITIONED BY RELEVANT NORMS OF INTERNATIONAL LAW, NOTABLY RESPECT FOR ACQUIRED RIGHTS.

5. CASTANEDA ALSO MADE IMPASSIONED PITCH FOR PROPOSAL THAT NO STATE CAN SEEK PRIVILEGED TREATMENT FOR ITS INVESTORS OR PRESENT CLAIMS ON THEIR BEHALF. WE MADE CLEAR THAT THERE IS NO POSSIBILITY OF OUR AGREEING TO SUCH UNFOUNDED PROPOSITIONS.

6. WHILE ALL THIS DUELING WAS PROCEEDING NICELY ALONG ITS PRE-ORDAINED COURSE, CANADIAN DEL SUDDENLY PROPOSED THAT PROBLEMS OVER PARAS 2, 10 AND 11 MIGHT ALL BE MET BY GROUPING THESE ARTICLES IN ONE SECTION OF CHARTER, WHICH WOULD ALSO INCLUDE AN ARTICLE REFERRING TO INTERNATIONAL OBLIGATIONS. NO SUCH REFERENCE WOULD BE INCLUDED IN PARAS 2, 10 AND 11. THIS SUGGESTION WAS GREETED WARMLY BY YUGOSLAVIA AND MEXICO (ALGERIA BEING ABSENT AND CHINA REMAINING SILENT) AND COOLY BY US DEL. WE SAID THAT WHILE WE WERE PREPARED TO CONSIDER ALL PROPOSALS, WE DOUBTED THAT THIS WOULD MEET OUR MINIMAL NEEDS.

7. AUSTRALIA SUGGESTED THAT, INSTEAD OF A REFERENCE TO INTERNATIONAL LIMITED OFFICIAL USE

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OBLIGATIONS IN ARTICLES 2, 10 AND 11, A REFERENCE TO INTERPRETING THESE ARTICLES IN ACCORDANCE WITH THIS CHARTER MIGHT SUFFICE, ON GROUND THAT IT HAS BEEN AGREED THAT THE "FUNDAMENTALS OF INTERNATIONAL ECONOMIC RELATIONS" PARAGRAPH AT OUTSET OF CHARTER WILL INCLUDE THE PRINCIPLE: "FULFILLMENT IN GOOD FAITH OF INTERNATIONAL OBLIGATIONS". THIS WAS ACCEPTED BY YUGOSLAVS AND MEXICANS AND REJECTED BY U.S. AND U.K. AFTER SESSION, WE EXPLAINED OUR

OBJECTIONS IN DETAIL TO AUSTRALIANS, WHO WILL NOT PRESS PROPOSAL. HOWEVER, COMPARABLE DEMARCHE TO CANADIANS AFTER SESSION DID NOT PRODUCE LIKE RESPONSE. ON CONTRARY, CANADIANS REVEALED THAT THEY WILL MEET WITH LDCA AND CASTANEDA ON SUNDAY, JUNE 16. MOREOVER, THEY REQUESTED THAT USDEL NOT INTRODUCE ITS NEW PROPOSAL ON MCNS, SINCE THEY ARE DRAFTING AN APPROACH THAT THEY BELIEVE HAS BETTER CHANCE OF ACCEPTANCE. WE DECLINED THIS LATTER REQUEST (WHICH CANADIANS FAILED TO MAKE A FEW HOURS EARLIER AT GROUP B MEETING) AND WILL PROCEED TO INTRODUCE OUR MNC PROPOSAL MONDAY MORNING. HOWEVER, IT COULD BE UNDERCUT BY CANADIANS SUNDAY. NOR ARE WE CONFIDENT THAT CANADIANS WILL PRODUCE A COMPENDIUM ON ARTICLES 2, 10 AND 11 WITH A PARAGRAPH ON INTERNATIONAL OBLIGATIONS THAT WILL BE SUITABLE. WE NATURALLY ARE DISPLEASED THAT CANADIANS HAVE TAKEN THIS SINGULAR LINE WITHOUT CONSULTATION WITH GROUP B AND WE HAVE ARRANGED GROUP B MEETING MONDAY 9:30 IN HOPE OF MOUNTING COLLECTIVE PRESSURE TO BRING THEM BACK ONTO THE RESERVATION.

8. DEVELOPMENT ASSISTANCE: GROUP TOOK UP PARA 4, REAFFIRMING ACCEPTABILITY OF FIRST TWO SENTENCES. FOLLOWING COMPROMISE TEXT FOR LAST SENTENCE NOW BEFORE GROUP: "EVERY STATE HAS THE DUTY, INDIVIDUALLY AND COLLECTIVELY, TO ENDEAVOR TO ELIMINATE ALL OBSTACLES WHICH MAY HINDER SUCH MOBILIZATION AND USE." US DEL STILL SEEKING BETTER LANGUAGE, SUCH AS "SHOULD ENDEAVOR", BUT "DUTY TO ENDEAVOR TO ELIMINATE" FORMULATION MAY BE BEST OBTAINABLE IF THIS IS NOT TO REMAIN A DISAGREED PARA. INSTRUCTION REQUESTED: IS THIS ACCEPTABLE?  
JOVA

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## Message Attributes

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